

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

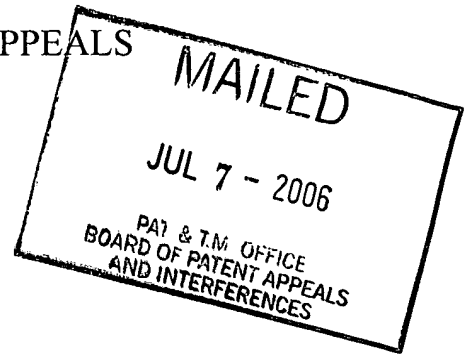
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Ex parte MARK S. IGRA

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Application No. 09/816,552

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received electronically at the Board of Patent Appeals and Interferences on June 28, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On September 30, 2005, appellant filed an Appeal Brief. A review of the file reveals that the Summary of Claimed Subject Matter does not map the claimed invention to the independent claims as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued

separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

In addition, claims 6, 9, and 10 in the Appendix are not consistent as amended in Amendment filed on July 20, 2005. The Claims Appendix needs to be changed to reflect the correct claims.

Lastly, the file reveals that the heading “Related proceedings appendix” is missing from the Appeal Brief. According to 37 CFR § 41.37 (c)(1)(v) which states:

(x) ***Related proceedings appendix.*** An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

Appropriate correction is required.

Accordingly, it is

**ORDERED** that the application is returned to the Examiner to:

- 1) hold the Appeal Brief of September 30, 2005 defective;
- 2) request applicant to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for the examiner to consider the substitute Appeal Brief, and if necessary, vacate the Examiner's Answer mailed December 8, 2005, and issue a revised Examiner's Answer in accordance with the new rules effective September 13, 2004;
- 4) for correction of the Appendix ; and
- 5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: 

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